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| 5   | Attorneys for Plaintiff NEILMED PRODUCTS, INC.                  |   |  |  |
| 6   |   |   |  |  |
| 7   | Stephen C. Beuerle (#181990)<br>John L. Roberts (#208927)       |   |  |  |
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| 10  | Facsimile: (619) 744-5467                                       |   |  |  |
| 11  | Attorneys for Defendant MED-SYSTEMS, INC.                       |   |  |  |
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| 13  |   |   |  |  |
| 14  | UNITED STATES DISTRICT COURT                                    |   |  |  |
| 15  | NORTHERN DISTRICT OF CALIFORNIA                                 |   |  |  |
| 16  | OAKLAND DIVISION  |   |  |  |
| 17  |   |   |  |  |
| 18  | NeilMed Products, Inc.,   | Case No. C 04:06-cv-00964-CW                              |  |  |
| 19  | Plaintiff,  | STIPULATED MOTION TO MODIFY SCHEDULING ORDER AND ORDER AS |  |  |
| 20  | v.  | MODIFIED OLD EXTRACT                                      |  |  |
| 21  | Med-Systems, Inc.,  | Hon. Claudia Wilken                                       |  |  |
| 22  | Defendant.  |   |  |  |
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IT IS HEREBY STIPULATED and agreed to by and between Plaintiff NeilMed Products, Inc. ("NeilMed") and Defendant Med-Systems, Inc. ("Med-Systems"), by and through their respective counsel of record, that there exists good cause under Fed. R. Civ. P. 16(b) for the Court to modify the scheduling order. Specifically, the parties wish to extend the discovery deadlines by several weeks—and the dispositive motion hearing date by one week—in order to allow the parties to finalize a settlement of this matter. The proposed extension will not affect the final pretrial conference or trial dates.

If the parties are unable to reach a settlement, the parties will resume discovery. This is the first motion to modify the scheduling order filed by the parties concerning the above-captioned action. The parties believe that no further extensions will be required.

Accordingly, the parties respectfully request that the Court modify the certain deadlines entered in this case on September 27, 2006, as set forth in the table below. All deadlines sought to be postponed are in bold-faced type and underlined. The remaining deadlines not sought to be postponed are also included in the table for ease of reference.

| <u>Event</u>  | Original Date             | New Date                  |
|---|---------------------------|---------------------------|
| Completion of fact discovery (with service of all fact discovery requests to occur on a date early enough to allow for response prior to this deadline) | <u>April 27, 2007</u>     | <u>May 18, 2007</u>       |
| Disclosure of identities and reports of expert witnesses  | May 25, 2007              | <u>June 15, 2007</u>      |
| Rebuttal expert reports deadline  | <u>June 22, 2007</u>      | July 13, 2007             |
| Close of Expert Discovery   | <u>July 13, 2007</u>      | July 27, 2007             |
| All case-dispositive motions to be heard at <b>2:00 p.m</b> . on or before:   | <u>September 21, 2007</u> | <b>September 27, 2007</b> |
| Final Pretrial Conference at 1:30 p.m. on:  | November 30, 2007         | November 30, 2007         |
| A 4 day Jury Trial will begin at 8:30 a.m. on:  | December 10, 2007         | December 10, 2007         |

| Dated: March 22, 2007  FISH & RICHARDSON P.C.  By: Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  Dated: March 22, 2007  PROCOPIO, CORY, HARGREAVES & SAVITCH LLP  By: /John L. Roberts/ John L. Roberts  Attorneys for Defendant MED-SYSTEMS, INC.  DECLARATION OF CONSENT  Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from John L. Roberts. Dated: March 22, 2007  FISH & RICHARDSON P.C.  By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC. | 1  | IT IS SO STIPULATED.                              |  |
|---|----|---|--|
| By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  Dated: March 22, 2007 PROCOPIO, CORY, HARGREAVES & SAVITCH LLP  By: /John L. Roberts/ John L. Roberts  Attorneys for Defendant MED-SYSTEMS, INC.  DECLARATION OF CONSENT  Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from John L. Roberts.  Dated: March 22, 2007 FISH & RICHARDSON P.C.  By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  | 2  |   |  |
| By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  Dated: March 22, 2007  PROCOPIO, CORY, HARGREAVES & SAVITCH LLP  By: /John L. Roberts/ John L. Roberts  Attorneys for Defendant MED-SYSTEMS, INC.  DECLARATION OF CONSENT  Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from John L. Roberts.  Dated: March 22, 2007  FISH & RICHARDSON P.C.  By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  | 3  | Dated: March 22, 2007                             | FISH & RICHARDSON P.C.                             |
| David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  PROCOPIO, CORY, HARGREAVES & SAVITCH LLP  By: /John L. Roberts/ John L. Roberts  Attorneys for Defendant MED-SYSTEMS, INC.  DECLARATION OF CONSENT  Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from John L. Roberts.  Dated: March 22, 2007  FISH & RICHARDSON P.C.  By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.   | 4  |   |  |
| Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  Dated: March 22, 2007  PROCOPIO, CORY, HARGREAVES & SAVITCH LLP  By: /John L. Roberts/ John L. Roberts  Attorneys for Defendant MED-SYSTEMS, INC.  DECLARATION OF CONSENT  Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from John L. Roberts.  Dated: March 22, 2007  FISH & RICHARDSON P.C.  By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.   | 5  |   |  |
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| NEILMED PRODUCTS, INC.  Dated: March 22, 2007  PROCOPIO, CORY, HARGREAVES & SAVITCH LLP  By: /John L. Roberts/  | 7  |   | Attorneys for Plaintiff                            |
| Dated: March 22, 2007  PROCOPIO, CORY, HARGREAVES & SAVITCH LLP  By: /John L. Roberts/  | 8  |   |  |
| SAVITCH LLP  By: /John L. Roberts/ John L. Roberts  Attorneys for Defendant MED-SYSTEMS, INC.  DECLARATION OF CONSENT Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from John L. Roberts. Dated: March 22, 2007  FISH & RICHARDSON P.C.  By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  4ttorneys for Plaintiff NEILMED PRODUCTS, INC.  | 9  | Dated: March 22, 2007                             | PROCOPIO CORV HARGREAVES &                         |
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| penalty of perjury that concurrence in the filing of this document has been obtained from John L.  Roberts.  Dated: March 22, 2007  By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  | 16 | DECLARATION OF CONSENT                            |  |
| Roberts. Dated: March 22, 2007  FISH & RICHARDSON P.C.  By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  | 17 | Pursuant to General Order No. 45, Sec             | ction X(B) regarding signatures, I attest under    |
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| 21 22 By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  24 Attorneys for Plaintiff NEILMED PRODUCTS, INC.   | 19 | Roberts.  |  |
| By: /Lisa M. Martens/ David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  | 20 | Dated: March 22, 2007                             | FISH & RICHARDSON P.C.                             |
| David J. Miclean Lisa M. Martens  Attorneys for Plaintiff NEILMED PRODUCTS, INC.  | 21 |   |  |
| 23 Lisa M. Martens  24 Attorneys for Plaintiff NEILMED PRODUCTS, INC.   | 22 |   |  |
| NEILMED PRODUCTS, INC.  | 23 |   |  |
| NEILMED PRODUCTS, INC.  | 24 |   | Attorneys for Plaintiff                            |
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| 1        |                   | <u>ORDER</u>   |
|----------|-------------------|--|
| 2        | IT IS SO ORDERED. |  |
| 3        | 3/26/07           | Chrolialeit  |
| 4        | Dated:            |  |
| 5        |                   | Honorable Claudia Wilken Judge Of The United States District Court |
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